

# Board of Zoning Adjustment

## Staff Report

September 11, 2023



<b>Case No:</b>	23-VARIANCE-0102
<b>Project Name:</b>	Breckinridge Street Variance
<b>Location:</b>	1409 E Breckinridge St
<b>Owner:</b>	Kristy and John Milchick
<b>Applicant:</b>	Kristy and John Milchick
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Ben Reno-Weber
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUESTS:**

- **Variance** from the Land Development Code (LDC, Section 5.4.1.E.5) to allow an accessory structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
<b>Side Yard Setback</b>	<b>2 ft.</b>	<b>0 ft.</b>	<b>2 ft.</b>

**CASE SUMMARY**

The subject site is located along E. Breckinridge Street two blocks west of Baxter Avenue. The applicant proposes to demolish the existing garage that is on a zero-lot line. The proposed location of the new garage will remain zero feet from the northwestern side property line. In fact, the new garage will be located closer to the established accessory use area, which increases the amount of available private yard area on the lot. The applicant provided consent signatures for the requested variance from adjacent property owners. Therefore, this case is eligible to be decided in business session per the bylaws and policies set forth by the Board of Zoning Adjustments.

**STAFF FINDINGS**

The requested variance is adequately justified for approval based on staff’s analysis contained in the standard of review.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the encroachment of the garage into the side setback does not impede the safe movement of vehicles or pedestrians or encroach upon adjacent property or right-of-way. The applicant has obtained the adjacent property owner’s consent to the planned construction and variance.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed building addition will not alter the essential, visual character of the general vicinity as the garage is in character with the surrounding residential neighborhood. There are other accessory structures near the subject site that also seemingly encroach into the side yard setback.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because there the garage will be located in a neighborhood with compacted lot sizes where reduced side yard setbacks are commonplace. In addition, the proposed garage will be located closer to the alleyway thereby increasing the amount of available private yard area to compensate for encroachment into the side yard.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the narrow width of the property makes conforming to the prescribed side yard setback standards more difficult.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has not started construction on the garage and has requested a variance.

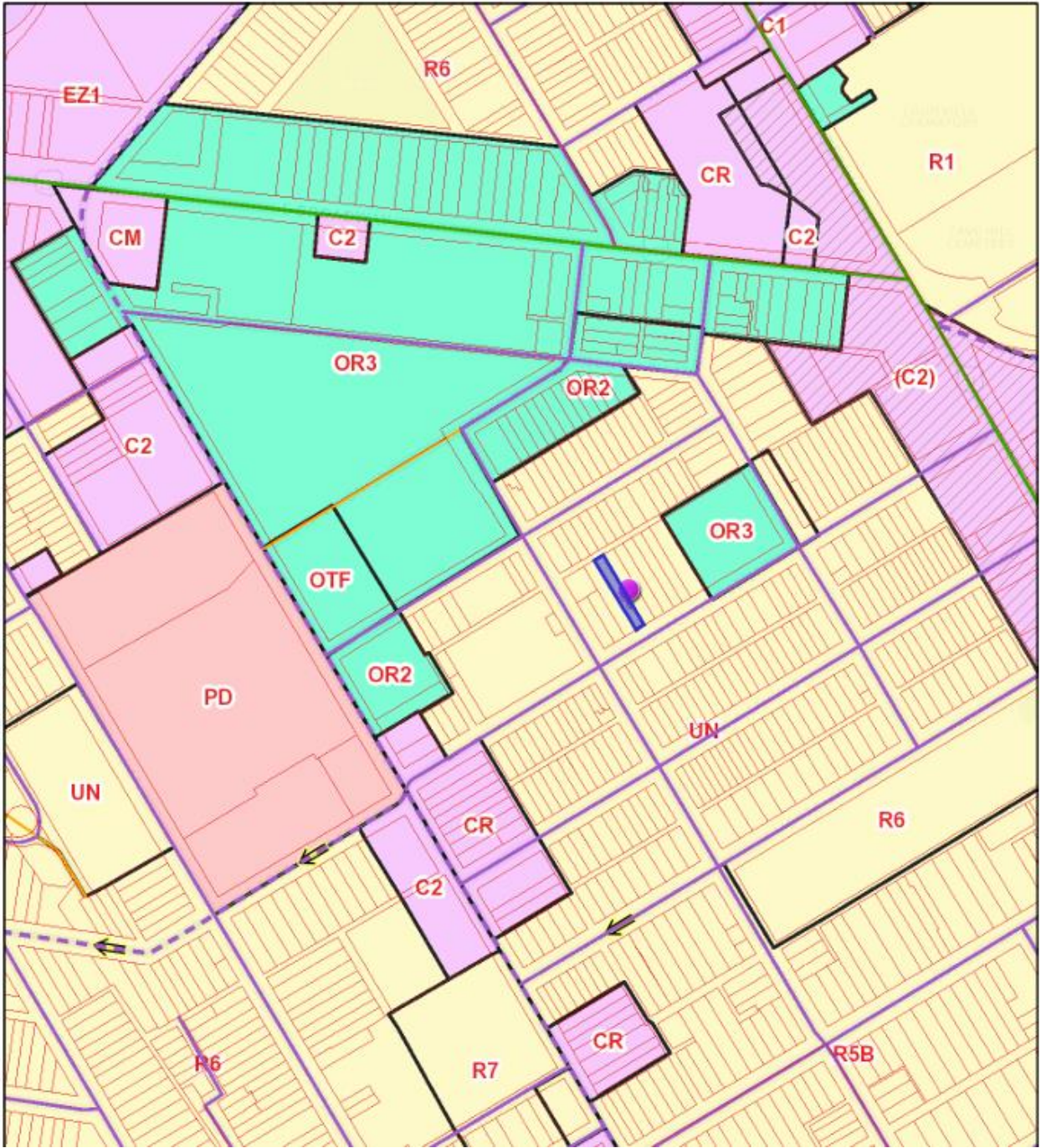
## **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Variance** from the Land Development Code section 5.4.1.E.5 to allow an accessory structure to encroach into the required side yard setback.

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



## 2. Aerial Photograph

